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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,749	08/20/2003	Sylvan R. Shemitz	SHEM-99 CON	9116
1473	7590	08/24/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			WARD, JOHN A	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/645,749	Applicant(s) SHEMITZ ET AL.	
	Examiner John A. Ward	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-12 and 20 is/are allowed.
- 6) ☐ Claim(s) 13-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) 4 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on May 26, 2004 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of 6,652,118 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

Claim 4 is objected to because of the following informalities: the term between and about is improper and does not clearly disclose the metes and bounds of the claimed invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13-15, and 17-19 rejected under 35 U.S.C. 102(e) as being anticipated by Kotloff (US 6,450,668).

Regarding claim 13, Kotloff ('668) discloses a multi-angle lighting fixture comprising of a housing 40 having a longitudinal aperture (figure 2), a reflector 50

mounted and enclosed the housing, a lamp holder 64, figure 2 shows how the reflector and lamp holder are rotatably adjustable and a adjustable mechanism 70 to rotate both.

Regarding claim 14, Kotloff shows in figure 2, how the reflector and lamp holder are mounted to each other.

Regarding claims 15 and 18, Kotloff teaches in column 1, lines 54-59, that the lamp holders can be operative to hold a T-5 fluorescent or any other conventional fluorescent lamps.

Regarding claim 17, Kotloff discloses that the adjustable mechanism 70 includes a screw-engaging reflector 50 to mover reflector from one position to another (column 3, lines 33-41).

Regarding claim 19, Kotloff discloses that the lamp holders can be mounted on the outside surface of the housing (column 5, lines 15-20).

Allowable Subject Matter

Claims 1-3, 5-12, and 20 are allowed.

Claim 16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 1 and 20, in addition to the terminal disclaimer, nowhere in the prior art is found a linear luminare having the reflector and ballast rotatably mounted together inside the housing.

Response to Arguments

Applicant's arguments with respect to claims 13-15 and 17-19 have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 571-272-2386. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAW
August 20, 2004

AU 2875



JOHN ANTHONY WARD
PRIMARY EXAMINER